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C O N F I D E N T I A L SECTION 01 OF 03 TEGUCIGALPA 000271

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SUBJECT: NEW HONDURAN TELECOM LAW PUT ON HOLD

Classified By: EconChief PDunn for reasons 1.4 (B,D)

11. (U) SUMMARY: In the face of rising opposition, a new draft telecommunications law designed to open the market to competition and meet CAFTA requirements was not introduced to Congress. A last-minute attempt to introduce competition specifically into international calling was also derailed. Key players now enjoying the near monopoly environment may be the main obstacles for any future reform. END SUMMARY.

LAST MINUTE CALL UNANSWERED

12. (SBU) EconOff met with two of the three commissioners of CONATEL, the GOH telecommunications oversight agency, on January 12 to discuss the prospects of passing the proposed telecommunications law (the &Ley Marco8) in the last few days of the outgoing Congress (controlled by the National Party). During the discussion, the commissioners described a rising opposition to the law from representatives of the Liberal Party, which was set to gain considerable power after Liberal Party President-elect Jose Manuel &Mel8 Zelaya took office on January 27. During the meeting, the commissioners took a call from outgoing President Ricardo Maduro, who informed the commissioners that the bill would not be introduced and asked for other ways to open the market to more competition.

13. (SBU) The commissioners responded with a final attempt to introduce competition by extending the concessions (licenses to compete) awarded under a program called &Telephony for Everyone.8 The program, designed to expand telephone service to outlying cities and villages, allowed certain companies to compete in fixed line services by acting as sub-contractors to parastatal telephone monopoly Hondutel. The hastily drafted law (termed the Equity Law) would have allowed about twenty companies authorized for fixed line service to compete in the lucrative international calling market. Despite calls from Ambassador to both then-President of Congress Porfirio &Pepe8 Lobo (National Party) and incoming President of Congress Roberto Micheletti (Liberal Party) supporting the measure, however, the law failed to be introduced. Per Lobo, resistance from the Popular Block (a federation of leftist and anti-globalization civic groups and labor unions -- including some workers from Hondutel) was simply too difficult to overcome. (Note: This is a questionable statement, given that the minor leftist Union Democratica - Democratic Union - Party that supports the Popular Block does not have the votes to block legislation. End Note).

14. (C) Even before the legislative defeats, CONATEL,s commissioners had indicated their concern that Liberal Party opponents to the new law were preparing to propose a new structure for CONATEL which would dramatically reduce the number of concessions awarded in the future. The new structure would potentially replace the three CONATEL commissioners with just one and change the agency from an independent organ to one under the jurisdiction of three ministers. This structure, per the commissioners, was adopted in Guatemala several years ago and since then - one concession has been awarded.⁸ One commissioner would be able to tightly control the flow of concessions, they indicated, leaving the approval process in the hands of political forces that would play to their own agendas rather than benefit the market.

THE OPERATOR,S CONNECTIONS

15. (C) The commissioners freely speculated on where the last minute resistance to the laws originated. The main culprit, in their view, was Mexican telecom mogul Carlos Slim (owner of AmericaMovil and TelMex) and his high-level connections with the GOH. Megatel, one of the two existing cellular companies, is owned by a Slim company (America Movil), and is enjoying large profits on international calling and other services in a near-monopolistic market. (Note: Former President Ricardo Maduro reportedly was granted a large block of stock options at the time Megatel was granted entry into the Honduras market, but chose not to exercise them. Despite specific contractual prohibitions on the re-sale of the concession within the first two years of operations, Megatel was sold in 2005 -- after less than one year of operation --

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to Slim. Late-night Congressional approval of the sale fueled rumors of corruption. End Note.)

16. (C) If Slim is in fact behind efforts to stall liberalization of the market, an additional possible motivation for reducing competition would be to maintain the value of Hondutel, which lies strategically between the former state-owned companies in Guatemala and Nicaragua -- both now owned by Slim. Not coincidentally, the sale of Hondutel broke down several years ago when only one company made an extremely low bid for the unit. The bidder was Slim,s Telmex, the former state-owned company in Mexico.

HOW (NOT) TO BREAK-UP A MONOPOLY

16. (U) Up until December 25, 2005, Hondutel, the state-owned fixed line company, had a monopoly on all calling services except wireless. Mobil company CelTel (owned by Milicom International of Luxembourg and Motorola) had been the sole operator on the wireless side from 1994 until 2003, when MegaTel (now wholly owned by America Movil of Mexico) entered the market. On December 25, 2005, Hondutel,s monopoly expired on key services, particularly the high margin international calling, leaving the market open for all eligible companies to complete international calls without going through Hondutel,s network. Without the new legislation, only CelTel and MegaTel are now allowed to compete in this newly opened market segment. The cell phone providers immediately dropped rates by 50 percent, but experts argue that real competition would lead to a further reduction in calls to the U.S. of at least another 50 percent (from 89 U.S. cents per minute to under 20 cents.)

17. (U) December 2005 was also the month for two key legislative proposals to be introduced. One was the Ley Marco, or framework law, that would immediately allow about forty companies already approved for any type of telecommunications service under Telephony for Everyone to compete in lucrative areas such as wireless service and

international calling. A universal service fund would also be created to continue expanding service into rural areas, offsetting Hondutel,s expected revenue loss from increased competition. Introducing the Ley Marco while the Hondutel monopoly was ending would move the market from a monopoly to open competition without having to go through a tight oligolopic phase of just Hondutel, CelTel and MegaTel.

18. (U) The Ley Marco includes several key provisions that meet the technical requirements of CAFTA. According to Conatel experts, the current telecom law does not sufficiently address requirements for: service resale, number portability, competitive safeguards, unbundling of network elements, universal service, and transparency. Consequently, passage of the Ley Marco is deemed essential for successful passage of CAFTA. USTR is currently reviewing proposed changes to the existing telecoms law that would fix these non-compliance areas -- thus allowing CAFTA entry into force, but not addressing the larger issue of bringing real competition to the sector.

19. (U) The other key pending legislative proposal -- the Law to Restructure Hondutel -- was meant to attract foreign investment to Hondutel. Proposed by the GOH modernization committee, the law would create a holding company that would allow Hondutel to issue shares, opening the door to new foreign investment without having to sell the company as a whole. Strategic areas held by Hondutel, like fixed network coverage in major population centers, the technological ability to compete in wireless, and data services would benefit from fresh capital and improve the company,s ability to compete in the new environment. This legislation was slated to be introduced at the same time as the Ley Marco, responding directly to critics, complaints of Hondutel,s inability to compete in the new competitive environment.

110. (C) COMMENT: With the Ley Marco on hold, the main focus of the outgoing CONATEL representatives was to sidetrack the Liberal Party,s initiative to restructure CONATEL and gain control over the concession process. While the initiative was not introduced in the last Congress, the new Liberal Party dominated Congress may see it as a way to pass the CAFTA-compliant Ley Marco while retaining control over competition. Ambassador delivered a non-paper to

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President-elect Zelaya on January 13 that reiterated the need for the Ley Marco while arguing against a new CONATEL structure. Post will continue to support this view as CAFTA implementation talks resume in February. END SUMMARY.
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